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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215266
Party	Defendant Griffin Technology, Inc.
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Signature	/Brian R. Iverson/
Date	09/03/2014
Attachments	Griffin Answer - OLLI Opposition.pdf(225201 bytes)

TRADEMARK TRIAL AND APPEAL BOARD

Opposer,

Y.

Applicant.

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) **Opposition No. 91/215,266**
) **Mark: OLLI**
) **Serial No. 85/939,010**

ANSWER TO NOTICE OF OPPOSITION

With regard to the preamble to the Notice, Griffin admits that it is a Tennessee corporation with its principal place of business at 2030 Lindell Avenue, Nashville, Tennessee 37203. Griffin further admits that, on May 22, 2013, Griffin filed an application to register the mark OLLI (the “Mark”) in International Class 9 based upon a bona fide intention to use the Mark in commerce in connection with “electronic hardware for attachment to portable electronic devices to convert them to point-of-sale terminals, barcode scanners and magnetic stripe readers” and the application was assigned Serial No. 85/939,010 (the “Application”). Griffin lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the preamble and, therefore, denies the same.

1. Griffin lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 and, therefore, denies the same.
2. Griffin admits that Opposer appears to have filed an application on June 21, 2011

to register the mark OLLOCLIP in International Class 9 for "Lenses for cameras; lenses for cameras incorporated in mobile electronic devices" and that the application appears to have matured into a registration and accorded U.S. Registration No. 4,137,064. The final sentence of Paragraph 2 contains a legal conclusion to which Griffin is not required to respond. To the extent a response is required, the allegation is denied. Griffin lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2 and, therefore, denies the same.

3. Griffin admits that Opposer appears to have filed an application on June 21, 2011 to register the mark OLLOCLIP in International Class 9 for "Carrying cases for mobile electronic devices" and that the application appears to have matured into a registration and accorded U.S. Registration No. 4,380,611. The final sentence of Paragraph 3 contains a legal conclusion to which Griffin is not required to respond. To the extent a response is required, the allegation is denied. Griffin lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3 and, therefore, denies the same.

4. Paragraph 4 asserts legal conclusions to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

5. Griffin admits that Opposer appears to have filed an application on July 3, 2012 to register the mark OLLOCLIP in International Class 9 for "Software for taking, processing, uploading, organizing, viewing, enhancing, sharing and commenting on images, graphics, video and photographs; software to enable the transmission of images, graphics, video and photographs using mobile electronic devices; software for editing, altering, enlarging, reducing, retouching and finishing images, graphics, video and photographs" and that the application appears to have been assigned U.S. Serial No. 85/668,411. Griffin lacks knowledge or information sufficient to

form a belief as to the truth of the remaining allegations in Paragraph 5 and, therefore, denies the same.

6. Griffin admits that Opposer appears to have filed an application on May 21, 2012 to register the mark OLLO in International Class 9 for "Lenses for cameras; lenses for cameras incorporated in mobile electronic devices; Carrying cases for mobile electronic devices" and that the application appears to have been assigned U.S. Serial No. 85/631,170. Griffin lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6 and, therefore, denies the same.

7. Griffin admits that Opposer appears to have filed an application on July 3, 2012 to register the mark OLLO in International Class 9 for "Software for taking, processing, uploading, organizing, viewing, enhancing, sharing and commenting on images, graphics, video and photographs; software to enable the transmission of images, graphics, video and photographs using mobile electronic devices; software for editing, altering, enlarging, reducing, retouching and finishing images, graphics, video and photographs" and that the application appears to have been assigned U.S. Serial No. 85/668,401. Griffin lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 7 and, therefore, denies the same.

8. Paragraph 8 asserts legal conclusions to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

9. Paragraph 9 asserts legal conclusions to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

10. Griffin admits that it filed the Application on May 22, 2013 based upon a *bona fide* intention to use the OLLI Mark. Griffin denies the remaining allegations in Paragraph 10.

11. Griffin admits that its Application to register the OLLI Mark is based on a *bona fide* intention to use the OLLI Mark in connection with "electronic hardware for attachment to portable electronic devices to convert them to point-of-sale terminals, barcode scanners and magnetic stripe readers." Griffin denies the first sentence of Paragraph 11 to the extent that it contains an incomplete and misleading description of goods identified in Griffin's Application to register the OLLI Mark. The second sentence of Paragraph 11 asserts a legal conclusion to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

12. Paragraph 12 asserts legal conclusions to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

13. Paragraph 13 asserts legal conclusions to which Griffin is not required to respond. To the extent a response is required, the allegations are denied.

Applicant denies that Opposer is entitled to any relief, including the relief requested in the WHEREFORE clause of the Notice.

All allegations not heretofore specifically admitted are expressly denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Notice fails to state a sufficient basis upon which to oppose the registration of Applicant's Mark and fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Applicant is actually using its Mark in commerce. During the time of actual use, there have been no incidents of confusion between the marks. Continued use of the respective marks and registration of Applicant's Mark will not cause any confusion and will not damage Opposer.

THIRD AFFIRMATIVE DEFENSE

Applicant's electronic devices related to point-of-sale terminals, barcode scanners and magnetic stripe readers are not sufficiently related to the camera lenses and other goods of the Opposer registered in connection with its asserted marks, nor are the conditions surrounding the marketing of each party's respective goods such that they would be or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that the parties' respective goods originate from the same source.

FOURTH AFFIRMATIVE DEFENSE

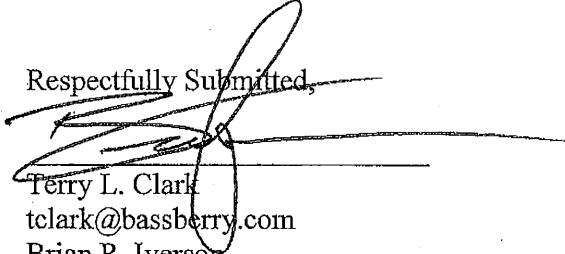
The Opposition is barred by the equitable doctrines of waiver, estoppel, unclean hands and/or acquiescence.

Applicant reserves all rights, including but not limited to the right to add additional affirmative defenses as discovery develops and facts become known to it.

PRAYER FOR RELIEF

WHEREFORE, Applicant requests judgment dismissing Opposer's Notice and this proceeding in its entirety with prejudice, and that Applicant's OLLI Mark (Serial No. 85/939,010) be registered to Applicant.

Respectfully Submitted,


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*Counsel for Applicant
Griffin Technology, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served on the Attorney of Record for Opposer, by mailing said copy on the 3rd day of September, 2014, via First Class U.S. Mail, with a courtesy copy being sent by email, to the following:

Gregory B. Phillips, Esq.
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
efiling@knobbe.com

A handwritten signature in cursive script that reads "Marian Moore". The signature is written in dark ink and is positioned above a horizontal line.

Marian Moore - Paralegal